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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/618,500      | 07/18/2000  | John A. Hagan        | RPC.0515-PUS        | 8840             |

22045 7590 01/21/2003

BROOKS & KUSHMAN  
1000 TOWN CENTER 22ND FL  
SOUTHFIELD, MI 48075

EXAMINER

POLLARD, STEVEN M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3727     |              |

DATE MAILED: 01/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

|                                      |                                   |
|--------------------------------------|-----------------------------------|
| Application No.<br><b>09/618,500</b> | Applicant(s)<br><b>Hagan</b>      |
|                                      | Examiner<br><b>Steven Pollard</b> |



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Oct 1, 2002

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-48 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-48 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

6)  Other: \_\_\_\_\_

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 - 9, 14 - 16, 18 - 23, and 34 - 36 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fordon.

Members #17 meet the bail handle limitation. The device of Fordon is adapted to receive an inner receptacle of unitary construction, such as a box. The device of Fordon has a compartment area which is arranged to removable receive an inner receptacle therein without requiring securing means, note Fig. 2. A box having an outer perimeter smaller than the inner perimeter of the Fordon structure of Fig. 2 will fit therewithin without securing means.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10 - 13, 24 - 33, and 40 - 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fordon in view of Overholt, et. al.

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It would have been obvious to one of ordinary skill in the art to have employed the collapsible teaching set forth in Overholt in the construction of the device of Fordon, motivated by the compact storage achieved thereby. The above set forth device is unitary construction.

5. Claim 14 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Cloyd.

The Cloyd device is adapted to receive an inner receptacle of a smaller size.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cloyd in view of Sanders, et. al.

It would have been obvious to one of ordinary skill in the art to have employed wall aperture teaching set forth in Sanders, et. al. in the construction of the device of Cloyd, motivated by the material savings achieved thereby.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cloyd in view of Sanders, et. al. as applied to claim 15 above, and further in view of Fordon.

It would have been obvious to one of ordinary skill in the art to have employed inner receptacle attachment members in the construction of the device of Cloyd as modified above by Sanders, et. al. in view of the teachings of Fordon, motivated by the intended use.

8. Claims 37 - 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fordon.

It would have been obvious to one of ordinary skill in the art to have employed a bag liner in the

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construction of the device of Fordon, motivated by cost. To have employed a ventilated inner container would have been obvious to one of ordinary skill in the art, motivated by the intended contents.

Steven M. Pollard

14 January 2003



Steven Pollard  
Primary Examiner